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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,616	12/22/2000	Robert Eugene Krautkramer	659/773	4594

757 7590 05/03/2005

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EXAMINER

PRONE, JASON D

ART UNIT PAPER NUMBER

3724

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,616

Applicant(s)

KRAUTKRAMER ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
4a) Of the above claim(s) 1-30,43,45,46 and 48 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 31-42,44 and 47 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/18/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 31-42, 44, and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. In regards to claims 31, 44, and 47, the phrase "pocket configured to maintain the log in the pocket without the use of an external structure to hold the log in the pocket" is unclear. Using Figure 2, roll retention device (24) is clearly an external structure holding the log in the pocket. Therefore, it is uncertain how this limitation in claims 31, 44, and 47 can be made when the invention itself does not comply. The claims do not disclose when the pocket is configured to maintain the log in the pocket without the use of an external structure just that it is configured to maintain the log in the pocket. Figure 2 clearly shows that this is not the case.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 31-36 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheless (2,123,580) (see Appendix A on page 8 of this office action for examiner added clarifying reference numbers).

Wheless discloses the same invention including a cutting device (50), a pocket (15), the pocket is configured to maintain the log in the pocket without the use of an external structure to hold the log in the pocket (80), the pocket includes an open end (81), a closed end (82), a first planar surface (83 in between lines), a second planar surface (84 in between lines), the second planar surface is larger than the first planar surface (83 and 84), a concave surface between the planar surfaces that forms the closed end (82), a plurality of channels (Fig. 1), a sprocket (10) that supports the pocket and rotates about an axis (11), the distance between the first and second planar surfaces is greater than the diameter of the log (16), the cutting device exerts a force on the log (Fig. 4), the pocket counterbalances the forces (Fig. 4), the first planar surface and the concave surface counterbalance the forces exerted on the log (Fig. 4), the cutting device is configured to pass through the channels (Fig. 1), and the sprocket supports a plurality of sprockets (Fig. 4).

6. Claim 47 is rejected under 35 U.S.C. 102(b) as being anticipated by Bush, Jr. et al. (3,908,495).

'495 discloses the same invention including a plurality of pockets (37), that the pockets being positioned to support the substrate along its length (Fig. 1), a plurality of circular saw blades (58), that the saw blades cut the substrate into a plurality of rolls and exert an upward vertical force on the rolls while the blades are in contact with the

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rolls (58), that the pockets are configured to maintain the rolls in the pocket without the use of an external structure to hold the rolls in the pocket (37).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wheless in view of '495. Wheless discloses the invention but fails to disclose that the cutting device comprises circular saw blades. '495 teaches a cutting device that comprises circular saw blades (58). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wheless with circular saw blades, as taught by '495, to create a more efficient cutting apparatus.

9. Claims 38-41 are rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Wheless. Wheless discloses the invention but fails to disclose the first planar surface has a width less than about 25mm and a length between 50mm and 360mm, the second planar surface has a width less than about 155mm and a length between 50mm and 360mm, the concave surface has a radius of curvature between 12mm and 130mm, and the distance between the planar surfaces is between 50mm and 250mm. The logs are between 4 inches and 15 inches (column 1 lines 5-6 in Wheless). In view of this, if one were using the small log (4 inches) it would have been obvious to have made the dimensions of the pocket smaller. These dimensions (the

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width, length, radius of curvature, and the distance between the planar surface) would have been within an obvious variance in formulating the characteristics of the pocket wherein several millimeters more or less of the desired dimensions would appear to be a matter of practicality of the respective parameter of the work piece.

10. Claim 44 is rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Wheless. Wheless discloses the invention including a pocket (15) including a base defining a horizontal axis (10), an open end (81), a closed end (82), a first planar surface (83), a second planar surface (84), a curved surface (82), the planar surfaces are at an angle of 60-degrees above the horizontal axis (83 and 84), and the pocket is configured to maintain the log in the pocket without the use of an external structure to hold the log in the pocket (80).

However, Wheless fails to disclose the first planar surface has a width less than about 25mm and a length between 50mm and 360mm, that the second planar surface has a width less than about 155mm and a length between 50mm and 360mm, the concave surface has a radius of curvature between 12mm and 130mm, and the distance between the planar surfaces is between 50mm and 250mm. The logs are between 4 inches and 15 inches (column 1 lines 5-6 in Wheless). In view of this, if one were using the small log (4 inches) it would have been obvious to have made the dimensions of the pocket smaller. These dimensions (the width, length, radius of curvature, and the distance between the planar surface) would have been within an obvious variance in formulating the characteristics of the pocket wherein several

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millimeters more or less of the desired dimensions would appear to be a matter of practicality of the respective parameter of the work piece.

Response to Arguments

11. Applicant's arguments filed 07 February 2005 have been fully considered but they are not persuasive. Applicant argues that the pockets are configured to maintain the log in the pocket during the cutting operation; however, "during the cutting operation" is not disclosed in the claim. The addition of "during the cutting operation" to the claim would overcome the rejection under 112 second paragraph. In regards to Wheless failing to disclose a second planar surface, please refer to Appendix B on page 9 of this Office action. Items "A" and "B" represent the first curve and second curve, while "AC" and "BC" represent these curves drawn out as circles. A tangent or planar line must be made in order to join curves "A" and "B". Also, if curve "A", for example, has a clockwise direction then curve "B" would then have a counterclockwise direction. In order for the transition from curve "A" to curve "B" a tangent or planar surface must be present. Wheless may be silent as to a second planar surface but geometry clearly shows a second planar surface. Bush, Jr. et al. clearly discloses all of the subject matter as claimed in claim 47.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JP
April 28, 2005

cy
Allan N. Shoap
Supervisory Patent Examiner
Group 3700

Appendix A

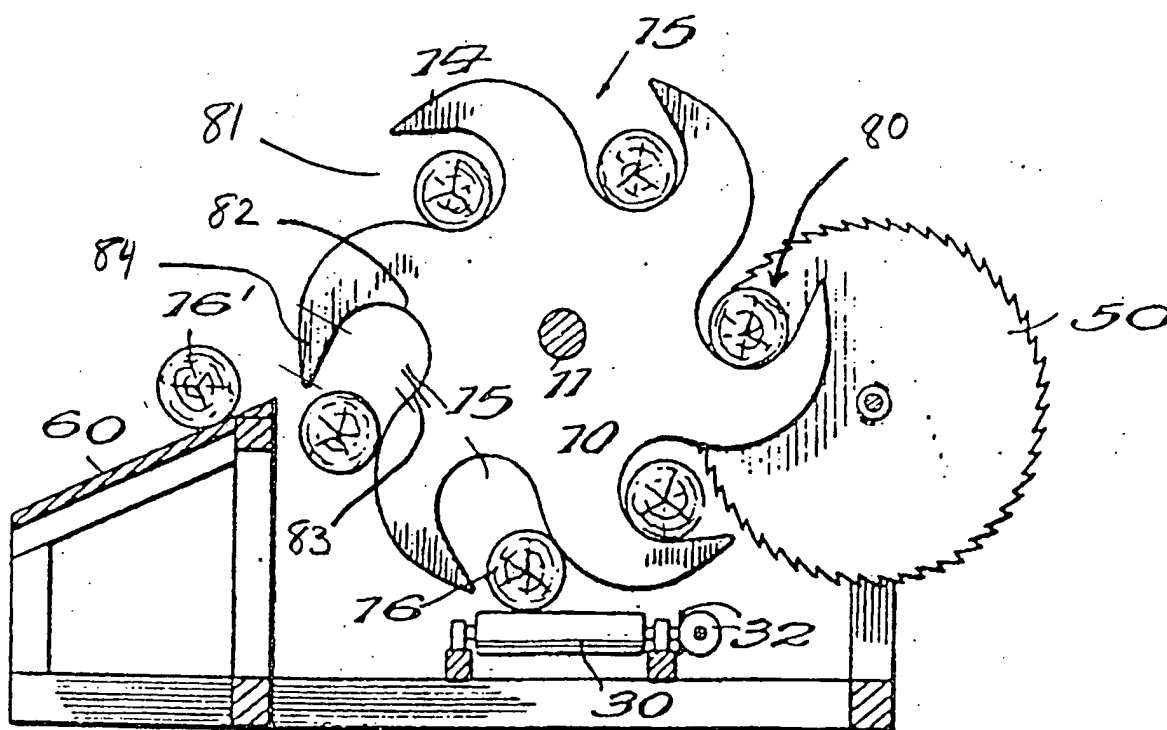


Fig. 4

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Appendix B

